

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DYSON TECHNOLOGY LIMITED)	
and DYSON, INC.,)	
)	Plaintiffs,
v.)	Civil Action No. 05-434-GMS
)	
MAYTAG CORPORATION,)	
)	
)	Defendant.

**MOTION FOR LETTERS OF REQUEST TO THE JUDICIAL AUTHORITY
IN THE UNITED KINGDOM**

TO THE HONORABLE COURT:

NOW APPEARS Maytag Corporation (“Maytag”), through its undersigned counsel, respectfully moves this court to issue Letters of Request directed to the appropriate judicial authority in the United Kingdom, The Masters' Support Unit, Royal Courts of Justice, Strand London WCA 2LL, England, for the production of documents from BSI, HI Europe, Frazer Nash Consultancy Ltd., Miles Calcraft Briginshaw, and Walker Media. This application is made pursuant to, and in conformity with, The Hague Convention on the Taking of Evidence in Civil or Commercial Matters, T.I.A.S. 7444, 23 Z.U.S.T. 2555, reprinted in 28 U.S.C.A. § 1781 (the “Hague Evidence Convention”), which is in force between the United States and the United Kingdom.

Counsel for Maytag has conferred with counsel for Dyson Technology Limited and Dyson, Inc. (“Dyson”) Dyson has indicated that it will not oppose Maytag's Motion for the issuance of Letters of Request to the Judicial Authority in the United Kingdom as to HI Europe, Frazer Nash Consultancy Ltd., Miles Calcraft Briginshaw, and Walker Media. Counsel have not

been able to reach an agreement as to BSI. Dyson has expressly reserved all other rights with respect to the requests.

In support of this Motion, Maytag states as follows:

1. As the Court is aware, Maytag seeks an injunction and damages against Dyson related to the packaging and advertising of certain models of its upright vacuum cleaners. Maytag claims that Dyson, through various marketing campaigns, has made false and misleading statements as to the suction power, cleaning efficiency, and design and performance capabilities of certain models of its upright vacuums.

2. Maytag seeks the aid of this Court in obtaining the evidence of three advertising companies, one testing lab, and one national standards body. It is believed that these entities have documents in their control that are relevant to the issues at hand. Each of the three Advertising Agencies, HI Europe, Miles Calcraft and Walker Media, have done work for or on behalf of Dyson in connection with its upright vacuums. The testing agency in question, Frazer Nash Consultancy, Ltd., has performed testing for or on behalf of Dyson in connection with its upright vacuums. Upon information and belief, the national standards body has worked with Dyson to create standards and protocols for testing upright vacuum cleaners.

3. This Court has previously allowed foreign discovery under 28 U.S.C. § 1781 following a showing of the necessity of the discovery. *See Tulip Computers Int'l B.V. v. Dell Computers Corp.*, 254 F.Supp.2d 469, 474 (D. Del. 2003) (relating to foreign discovery pursuant to Hague Evidence Convention).

4. Each of the parties from whom documents are requested have either been identified by Dyson in its Initial Disclosures as a person with knowledge about the facts of the

case or have been identified by Maytag as a company which, upon information and belief, may have responsive documents.

5. Maytag believes that the documents requested will be critical to proving the allegations it has proffered in these proceedings in that they will show that Dyson's packaging and advertising claims are false and misleading.

THEREFORE, MAYTAG RESPECTFULLY REQUESTS:

- A. That the Court issue, and cause to be certified by the Clerk of the U.S. District Court for District of Delaware, Letters of Request addressed to the "Appropriate Judicial Authority in the United Kingdom," The Masters' Support Unit, Royal Courts of Justice, Strand, London WCA 2LL, England;
- B. That said Letters of Request be issued in the form attached herewith requesting the summoning of BSI, HI Europe, Frazer Nash Consultancy Ltd., Miles Calcraft Briginshaw, and Walker Media by said United Kingdom's proper and usual process for summoning of production of documents.

Respectfully submitted,

/s/ Francis DiGiovanni
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Attorneys for Maytag Corporation

Dated: August 31, 2006

CERTIFICATE OF SERVICE

I, Francis DiGiovanni, hereby certify that on August 31, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on August 31, 2006, I caused a copy of the foregoing document to be served by hand delivery and email on the above-listed counsel of record, and by U.S. Mail and email on the following counsel of record:

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